

REMARKS

By this preliminary amendment, Applicant is canceling claims 35-54 without prejudice and introducing new claims 55-73. Upon entry of this preliminary amendment, claims 1-35 and 55-73 are pending for examination.

In response to a telephone communication regarding unity of invention from Examiner Catherine Williams on September 14, 2004, Applicant elects to pursue Group I claims relating to claim 1. Applicant has canceled claims 35-54 without prejudice. Applicant respectfully traverses any remaining unity of invention rejection and submits that the presently pending claims should be grouped along with claim 1, because they relate to methods involving introducing material into one or more lung regions.

Pursuant to 37 C.F.R. §41.202, Applicant informs the Examiner that this preliminary amendment presents one or more claims that may correspond to one or more claims in US 2003/0228344 published on December 11, 2003. Accordingly, Applicant brings this published patent application to the Examiner's attention.

Applicant also wishes to bring to the attention of the Examiner that the present claims are based at least on claims previously presented in this or one or more parent or related patent applications. Basis for the present claims also may be found at least in the in the detailed description and example sections of the specification. However, Applicant is submitting this preliminary amendment further to preserve the right to pursue any claim that may be considered as corresponding to a claim published in US 2003/0228344.

Disclosure upon which present claims are based was first filed at least in PCT/US00/23134, filed on August 23, 2000, which claims priority to US Serial No. 09/379,460 filed on August 23, 1999 (now issued as US Patent 6,610,043). Accordingly, Applicant submits that the present claims present no new matter.

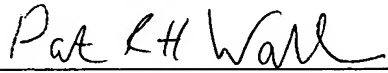
Serial No.: 10/069,307
Conf. No.: 1962

- 9 -

Art Unit: 3763

Applicant believes that no fee is due with this submission. However, if there is a fee occasioned by this amendment, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,
Edward Ingenito, Applicant

By: 
Patrick R.H. Waller, Ph.D., Reg. No.
41,418
Wolf, Greenfield & Sacks, P.C.
600 Atlantic Avenue
Boston, Massachusetts 02210-2206
Telephone: (617) 646-8000

Docket No.: B1136.70000US03
Date: December 11, 2004
xNDDx